

****CONFIDENTIAL** – For the El Dorado County District Attorney's and Sheriff's Offices**

EXECUTIVE SUMMARY

This confidential briefing for El Dorado County law enforcement presents evidence of the illegal sale of aborted fetal tissue by business entities in El Dorado County, and other related actions in violation of California and federal law.

CA Laws:

Penal Code 187.

(a) Murder is the unlawful killing of a human being, or a fetus, with malice aforethought.

Penal Code 367f.

(a) Except as provided in subdivisions (d) and (e), it shall be unlawful for any person to knowingly acquire, receive, sell, promote the transfer of, or otherwise transfer any human organ, for purposes of transplantation, for valuable consideration.

Health and Safety Code 7150.10.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this chapter, a fetus.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

Health and Safety Code 7150.75.

(a) Except as otherwise provided in subdivision (b), a person that, for valuable consideration, knowingly purchases or sells a part for transplantation or therapy, if removal of a part from an individual is intended to occur after the individual's death, is guilty of a felony and is subject to a fine not exceeding fifty thousand dollars (\$50,000), or imprisonment not exceeding five years, or both the fine and imprisonment.

Health and Safety Code 123435.

The rights to medical treatment of an infant prematurely born alive in the course of an abortion shall be the same as the rights of an infant of similar medical status prematurely born spontaneously.

Health and Safety Code 123440.

(a) It is unlawful for any person to use any aborted product of human conception, other than fetal remains, for any type of scientific or laboratory research or for any other kind of experimentation or study, except to protect or preserve the life and health of the fetus. "Fetal remains," as used in this section, means a lifeless product of conception regardless of the duration of pregnancy. A fetus shall not be deemed to be lifeless for the purposes of this section, unless there is an absence of a discernible heartbeat.

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(b) In addition to any other criminal or civil liability that may be imposed by law, any violation of this section constitutes unprofessional conduct within the meaning of the Medical Practice Act, Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

Federal Laws:

18 U.S.C. 1531. Partial-birth abortions prohibited.

(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. [...]

(b) As used in this section—

(1) the term “partial-birth abortion” means an abortion in which the person performing the abortion—

(A) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus;

42 U.S.C. 289g-2. Prohibitions regarding human fetal tissue.

(a) Purchase of tissue It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce.

Summary of Violations of State and Federal Law in El Dorado County:

1) StemExpress, LLC buys and sells fetal tissue for profit from its office in Placerville, in partnership with **Planned Parenthood**, to researchers across the country and internationally

2) StemExpress obtains born-alive infants from **Planned Parenthood** and other abortion providers who are killed through either neglect or overt homicide by **PP** and **StemExpress** staff

3) StemExpress’ treatment of abortion patients at **Planned Parenthood** clinics violates state and federal patient protection laws

4) StemExpress operates in local **Planned Parenthood** clinics with the knowledge and encouragement of Planned Parenthood Federation of America (**PPFA**)

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Key Entities/Persons:

StemExpress, LLC: Stem cell research and human biologics supply company located in Placerville. StemExpress was founded in 2010 by Cate Dyer and has long-standing relationships with Planned Parenthood affiliates in California and other abortion providers in and out of state.

Planned Parenthood Mar Monte: A California Planned Parenthood affiliate that operates abortion clinics in Sacramento, Fresno, Stockton, and San Jose where StemExpress technicians procure fetal tissue. PPRM operates high-volume facilities that perform abortions up to at least 20 weeks’ gestation.

Planned Parenthood Northern California: Formerly known as Planned Parenthood Shasta-Pacific, this northern California affiliate operates abortion clinics in Concord, Vallejo, and Fairfield where StemExpress technicians procure fetal tissue.

Planned Parenthood Federation of America: The national franchise of Planned Parenthood, which sets and oversees medical standards and guidelines and other policies and protocols for all affiliates. PPFA is the largest abortion provider in the United States.

Deborah Nucatola, MD: Senior Director of Medical Services, PPFA. She oversees the medical practice of all Planned Parenthood clinics, trains PP abortion doctors, and has overseen Federation involvement and affiliate contacts with StemExpress.

Ronald Berman, MD: Physician abortion provider for Planned Parenthood Mar Monte, and also the Medical Director for StemExpress. StemExpress operates under his medical license.

Cate Dyer: Founder and CEO of StemExpress. Cate started her career in fetal tissue sales as a procurement technician for Advanced Bioscience Resources, and according to ABR staff stole ABR corporate files in order to start StemExpress in 2010.

Sara Heuston: Originally the Accountant for StemExpress in 2010, Procurement Manager from 2010-2013. Coordinated fetal tissue procurement at all Planned Parenthood clinics StemExpress worked with and managed StemExpress procurement technicians.

Jessica Cruz: StemExpress Regional Procurement Manager for the Bay Area, now works for AllCells, Inc.

Holly O’Donnell: Former Procurement Technician for StemExpress, very willing to cooperate with law enforcement.

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1) StemExpress buys and sells fetal tissue for profit from its office in Placerville:

Laws implicated: CA Penal Code 367f, CA Health and Safety Code 7150.75, 42 U.S.C. 289g-2

StemExpress, LLC is a for-profit company in Placerville that sells organs, tissues, and cells from aborted fetuses to scientific researchers. Their standard fee is \$595 per specimen, which does not include shipping or packaging fees:

Megan Barr, Procurement Manager, StemExpress: *for the two different tissues, each one of those, so the thymus and the intestine each would be \$595 plus packaging and shipping. (8/1/14)*

StemExpress purchases the fetal tissue from dozens of abortion clinics inside and outside of California. They advertise this relationship as a “**financially profitable**” and “**fiscally rewarding**” arrangement for abortion clinics:

Your clinic can advance biomedical research.

Financially Profitable • Easy to Implement Plug-in Solution • Safeguards You and Donors

Join our partner program that fiscally rewards clinics for contributing to the advancement of life-saving research—with a solution that is easy to incorporate into your clinic practices. StemExpress is a California-based biomedical company that provides human tissue products ranging from fetal to adult tissues and healthy to diseased samples to many of the leading research institutions in the world. Our IRB approved protocols and consents protect you as well as donor's privacy in accordance with HIPAA guidelines.

For full details, please visit us at **Booth #118**. Contact us at **1.877.900.STEM** or **info@stemexpress.com**.

stem express

StemExpress advertisement to clinics at National Abortion Federation Annual Meeting

The payments that StemExpress makes to clinics are not reasonable reimbursement for costs associated with procurement, but valuable consideration for the fetal tissue specimens themselves. StemExpress refuses to make any payment to clinics for tissue that does not meet their strict specifications:

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*“Section 2.2 [of the Clinic contract] is intended to **ensure that we receive only viable specimens from the clinics**. As we discussed at dinner, in the past StemExpress has received tubes from certain clinics containing specimens that range from unusable tissue (unusable for a host of reasons) to blood clots that were mistaken for liver tissue. **The common theme in these cases was that the supplier expected payment even though the material was unusable or non-existent** [sic].” –Kevin Cooksey, VP Corporate Development, StemExpress, 6/12/15*

California state laws on human body parts transfer criminalize the purchase and sale of parts for “transplantation” and “transplantation and therapy,” while the federal anti-trafficking law makes no qualifications. The statutory language about “transplantation” and “therapy” comes from the Uniform Anatomic Gift Act, whose drafters wrote this about the meaning of those terms:

*The terms “transplantation”, “therapy”, “research” and “education” are not defined in this [act]. Rather, they are defined by their common usage in the communities to which they apply. In general terms, transplantation refers to the removal and grafting of one individual’s body part into the body of another individual. Research is a process of testing and observing, the goal of which is to obtain generalizable knowledge, while **therapy involves the processing and use of a donated part to develop and provide amelioration or treatment for a disease or condition**. Education posits the use of the whole body or parts to teach medical professionals and others about human anatomy and its characteristics. –“Prefatory Note,” Revised UAGA 2006, pg. 19 (http://www.uniformlaws.org/shared/docs/anatomical_gift/uaga_final_aug09.pdf)*

Thus, the regenerative medicine applications and cell-based therapy projects for which StemExpress sells fetal tissue clearly fall under the scope of the California laws.

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2) StemExpress obtains born-alive infants from Planned Parenthood and other abortion clinics who are killed through either neglect or overt homicide by Planned Parenthood and StemExpress staff

Laws implicated: CA Penal Code 187, CA Health and Safety Code 123435, CA Health and Safety Code 123440, 18 USC 1531

StemExpress sometimes receives fully intact fetuses from the abortion clinics that they work with:

*“I remember it was my day off and I went on my laptop and AIM popped up and they were working. And I read a message saying that **the doctor had aborted a fully intact fetus, fully intact. And StemExpress was sending it straight to the lab.**” –Holly O’Donnell, former Procurement Technician, StemExpress, 12/27/14*

StemExpress CEO Cate Dyer confirmed that StemExpress frequently receives fully intact fetuses in Placerville. A “case” refers to an abortion case, so an “intact case” is an intact abortion:

“Oh, yeah, I mean if you had intact cases, which we’ve done a lot, we sometimes ship those back to our lab in its entirety.” –Cate Dyer, CEO, StemExpress, 5/22/15

Intact fetuses are valuable for tissue procurement because they are physically undamaged by the abortion process and can yield multiple, high-quality specimens. Since feticide is never used in tissue procurement cases, an intact-aborted fetus will be delivered alive as a born-alive infant under California and federal law (CA HSC 123435, 1 USC 8).

CA Health and Safety Code 123440 prohibits any experimentation on a living fetus, defined as a fetus with a discernible heartbeat. StemExpress has procured tissue from live-aborted fetuses with beating hearts multiple times:

“I’m there and I’m looking at this fetus with its heart still beating, and I don’t know what to think. She’s [Jessica Cruz] like: ‘You know why that’s happening?’ And, I know why it’s happening. It’s because the electrical current—the nodes were still firing. I don’t know if that constitutes it’s technically dead or alive.” –Holly O’Donnell, former Procurement Technician, StemExpress, 12/27/14

StemExpress has harvested multiple beating hearts from aborted-alive fetuses. Langendorff perfusion is a protocol for attaching an excised beating heart to a nutrient pump to keep it beating and alive for several hours after extraction:

“In brief, human fetal hearts were collected after elective abortion by a commercial vendor (StemExpress, Placerville, CA). Fetal hearts underwent Langendorff perfusion with Tyrode solution containing collagenase and protease.” –Wu et al, “Early Stem Cell

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Engraftment Predicts Late Cardiac Functional Recovery.” *Circulation: Cardiovascular Imaging*, 7 May 2012. (<http://circimaging.ahajournals.org/content/5/4/481.full#sec-5>)

In order to obtain an intact fetus from a 2nd-trimester abortion, Planned Parenthood abortion providers may resort to the illegal partial-birth abortion method, which is characterized by the abortion doctor’s use of ultrasound guidance and forceps to convert the fetus to breech (feet-first) position, and extract the fetus intact and alive (18 USC 1531).

Deborah Nucatola, Senior Director of Medical Services for PPFA, has admitted to CMP investigators that she uses this procedure to harvest intact fetal parts:

*“It makes a huge difference. I’d say a lot of people want liver. And **for that reason, most providers will do this case under ultrasound guidance**, so they’ll know where they’re putting their forceps.”*

*“So if you **do it starting from the breech presentation**, there’s dilation that happens as the case goes on, and often, the last step, you can evacuate an intact calvarium at the end.”*

*“Under ultrasound guidance, **they can just change the presentation.**”*

—Deborah Nucatola, PPFA

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3) StemExpress’ treatment of abortion patients at Planned Parenthood clinics violates state and federal patient protection laws

Laws implicated: CA Health and Safety Code 125290.35; 17 CA Code of Regulations 100080, 100085; 42 USC 289g-1

CA Health and Safety Code 125290.35 tasks the California Institute for Regenerative Medicine (CIRM) Independent Citizen Oversight Committee (ICOC) with developing regulations for patient consent and payments for stem cells. Title 17 of the Code of Regulations at 100080 implements the payment standards and 100085 regulates informed consent for donation of aborted fetal tissue. 42 USC 289g-1 sets federal standards for patient consent and fetal tissue procurement for federally-funded fetal tissue research.

Former StemExpress workers testify that StemExpress frequently takes fetal tissue with improper or no patient consent:

“If there was a higher gestation and the technicians needed it, there were times when they would just take what they needed. And these mothers don’t know. And there’s no way they could know.” —Holly O’Donnell, former procurement technician, StemExpress, 12/27/14

Most fetal tissue use supplied by StemExpress is funded by CIRM and/or the NIH:

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Materials and Methods

Ethics statement

Peripheral blood mononuclear cells was obtained at the University of California, Los Angeles in accordance with UCLA Institutional Review Board (IRB) approved protocols under written informed consent using an IRB-approved written consent form by the UCLA Center for AIDS Research Virology Laboratory and Dr. Yang and was distributed for this study without personal identifying information. Human fetal tissue was purchased from Advanced Biosciences Resources or from StemExpress and was obtained without identifying information and did not require IRB approval for its use. Animal research

Fetal liver and thymus purchased from StemExpress in CIRM- and NIH-funded study:

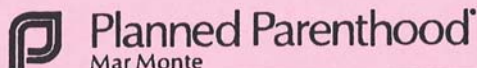
Kitchen et al, “In Vivo Suppression of HIV by Antigen Specific T Cells Derived from Engineered Hematopoietic Stem Cells.” *PLOS Pathogens*, 12 April 2012.

<http://journals.plos.org/plospathogens/article?id=10.1371/journal.ppat.1002649>

Both State and Federal regulations and statutes require that patients consent to fetal tissue donation, that the abortion procedure not be modified in any way to obtain the tissue, and that the abortion doctor disclose any financial interest he or she has in the fetal tissue donation.

The Planned Parenthood consent form used by StemExpress does not disclose the financial relationship between StemExpress and Planned Parenthood:

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Client Information for Informed Consent

**DONATION OF BLOOD AND/OR ABORTED PREGNANCY TISSUE FOR MEDICAL
RESEARCH, EDUCATION, OR TREATMENT**

Research using the blood from pregnant women and tissue that has been aborted has been used to treat and find a cure for such diseases as diabetes, Parkinson's disease, Alzheimer's disease, cancer, and AIDS.

You can donate your blood and/or pregnancy tissue after an abortion. Before you give your consent, read each of the following statements and initial the line to the right. We will be happy to answer any questions you have.

Before I was shown this consent, I had already decided to have an abortion and signed a consent form for it. _____

I agree to give my blood and/or the tissue from the abortion as a gift to be used for education, research, or treatment. _____

I understand I have no control over who will get the donated blood and/or tissue or what it will be used for. _____

I have not been told the name of any person who might get my donation. _____

I understand there will be no changes to how or when my abortion is done in order to get my blood or the tissue. _____

I understand I will not be paid. _____

I understand that I don't have to give my blood or pregnancy tissue, and this will not affect my current or future care at Planned Parenthood Mar Monte. _____

Signature: _____ Date: _____

Witness: _____ Date: _____

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4) StemExpress operates in local Planned Parenthood clinics with the knowledge and encouragement of Planned Parenthood Federation of America (PPFA)

*“So, we tried to do this [direct affiliate fetal tissue partnerships], and at the national office we have a Litigation and Law Department that really doesn’t want us to be a middleman for this issue, right now. **Because we were actually approached by StemExpress to do the same thing. One of the California affiliates said, ‘We’re working with these people, we love it, we think every affiliate should work with them.’ And so we had a conversation, and we said, you know, what if we go out and find everyone who is doing this and present everybody with a menu, and at the end of the day they just decided that right now, it’s just too touchy and issue for us to be an official middleman.**”*

“But I will tell you that behind closed doors, these conversations are happening with affiliates.”

—Deborah Nucatola, Senior Director of Medical Services, PPFA, 7/25/14

“Deb [Nucatola] gets requests and I get requests about whether or not people should be working with, well, the requests have been coming, we hear StemExpress. And should we work with them? Because Shasta-Pacific, in northern California, they work with them and they’re sort of vocal about it.”

“We’re not making recommendations, so. But Deb [Nucatola] is a big proponent, so.”

—Deborah VanDerhei, National Director, PP Consortium of Abortion Providers, 2/28/15

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